

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED FOOD AND COMMERCIAL
WORKERS LOCAL 1776 &
PARTICIPATING EMPLOYERS HEALTH
AND WELFARE FUND, et al.,

Plaintiffs,

v.

TEIKOKU PHARMA USA, INC., et al.,

Defendants.

Case No. [14-md-02521-WHO](#)

ORDER RE DISCOVERY DISPUTE

Re: Dkt. No. 247

The parties filed a discovery letter brief on August 6, 2015 regarding a dispute between defendants and Direct Purchaser Plaintiffs (“DPPs”) about the defendants’ Requests for Production (“RFPs”). Defendants seek “the production of data and documents relating to the DPP’s pricing and sales of Lidoderm and contracts with their customers.” Dkt. No. 247 at 1. Plaintiffs contend that this information is not relevant under *Hanover Shoe v. United Shoe Machinery Corp.*, which allows a direct purchaser to recover the full amount of an overcharge and prevents a defendant from offering the downstream sales as an offset. Defendants argue that the information it seeks is relevant to its defense and damages, among other things.

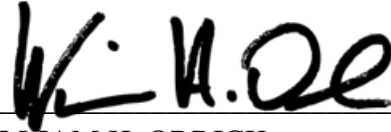
After reviewing the discovery letter brief submitted by the parties, I find that the requested documents are relevant for the reasons identified by the defendants, and am inclined to allow discovery of electronic data and documents relating to the DPP’s pricing and sales of Lidoderm and contracts with their customers. However, after reviewing the RFPs, I also agree with the DPPs that the requests themselves appear overly broad and unduly burdensome.

In light of the guidance in this order, the parties shall meet and confer by August 19, 2015, to attempt to reach a resolution for a more limited production of the documents identified in the RFPs that is consistent with this Order. *See also* Dkt. No. 232. If they are unable to reach a

1 resolution by 5:00 p.m. on August 19, 2015, they shall give notice by 10:00 a.m. on August 20 to
2 Ms. Davis, Courtroom Deputy, and provide her with their competing proposals for the scope of
3 the requests. A telephonic hearing will then occur at 2:00 p.m. on August 21, 2015.

4 **IT IS SO ORDERED.**

5 Dated: August 13, 2015

A handwritten signature in black ink, appearing to read "W. H. Orrick", written over a horizontal line.

WILLIAM H. ORRICK
United States District Judge

United States District Court
Northern District of California